

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

|                          |   |                     |
|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA | ] |                     |
|                          | ] |                     |
| v.                       | ] | No. 05-CR-30042-MLW |
|                          | ] |                     |
| CESAR CRUZ and           | ] |                     |
| RICARDO DIAZ             | ] |                     |

**STATUS REPORT**

In paragraph 3 of its order of September 27, 2006, the Court ordered the parties to report on certain issues by October 6, 2006.

**Plea Negotiations**

The parties have re-initiated active plea negotiations, but do not yet know if the case can be resolved.

**Severance – Counts or Defendants**

The parties agree that Count 3 should be severed from Counts 1 and 2, and tried separately.

**Further Motions**

The government is informed that the defendants plan to file at least the following motions:

- (a) Motion to Dismiss;
- (b) Motion for Bill of Particulars as to Count 1 (Conspiracy);
- (c) Motion to Continue Trial Date;<sup>1</sup>

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<sup>1</sup> Counsel for Ricardo Diaz told the government he plans to move for a continuance of the trial date because (a) he is scheduled to begin a murder trial in the near future (*Commonwealth v. Siemietkowski*), which appears to involve a case older than this one and a defendant who is detained, and (b) the Court's court reporter for

- (d) Motion for Access to Witnesses;
- (e) Motion for Funds for Transcripts.

As to scheduling for those motions, the defendants propose the schedule below, which assumes a continuance of the trial date. The government does not object to this schedule:

|                   |  |
|-------------------|--|
| October 11, 2006  | Defendants file Motion to Continue Trial Date, Motion for Bill of Particulars as to Conspiracy Count, Motion for Access to Witnesses, Motion for Transcripts |
| October 25, 2006  | Government responses due.  |
| December 1, 2006  | Defendants file Motion to Dismiss  |
| December 15, 2006 | Government response due.   |

Finally, the defendants have made five discovery requests. The parties have conferred and the government has agreed to produce the requested materials. In the event the government gives notice that it has identified materials it is not willing to provide, the defense would file appropriate discovery motions within 14 days in accordance with LR 116.3 (G).

As of this date, the government has not identified any motions it intends to file.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

CESAR CRUZ  
Defendant

RICARDO DIAZ  
Defendant

By: /s/ Andrew Lelling  
Andrew Lelling  
Sharron Kearney  
Assistant U.S. Attorneys

/s/ Joseph Franco  
Joseph Franco, Esq.  
Counsel for Cesar Cruz

/s/ Terry Nagel  
Terry Nagel, Esq.  
Counsel for Ricardo Diaz

Date: October 6, 2006

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the instant case has informed the parties that he will be unable to prepare transcripts of the recent testimony and hearings until early November at the earliest. The government will not object to the motion.